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AI/DDA
7D02, Hqs.

[redacted]

7 February 1978

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Legislative Counsel
ATTN: [redacted]

Attached are the Directorate
of Administration comments on the
newest Titles I, II, III and V
of the draft charter legislation.
If you have any questions on any
of these comments, we will be
happy to discuss them with you.

Signed

[redacted]

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Atts: a/s

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AI/DDA: [redacted] ydc (7 Feb 78)

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TITLE I

Page 24, Section 114(m)

The authority conferred by this subsection applies only to the Office of the Director. Similar authority for CIA is needed in Title III. Also, we note that our previous recommendation on limiting governmental job opportunities of a person fired for national security reasons has not been incorporated.

Page 27, Section 116(b)

* The Director's authority to employ is here limited to the GS-18 level. It should match Title III's authority to employ at the EP-V level.

Page 48, Section 134(b)

Should this section specify "military logistics"? Better yet, why not delete "logistics," it being an element of "military advice or training" which is already restricted by this section.

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TITLE II

Page 21, Section 219

Police checks are a basic step in determining a potential source's suitability. This section should authorize such checks.

Page 23, Section 220(c)

Again, police checks should be authorized.

Page 43, Section 254

* We continue to be concerned about possible interpretations of the term "domestic security investigations."

Page 48, Section 258(b)(1)

This section implies an investigative charter but only a partial one and indirectly in connection with cooperating with law enforcement agencies. Whether the intent is to limit our investigations to those of applicants only or our police checks to applicant cases only, this section is inadequate to our needs.

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TITLE III

Page 7, Section 313(g)(3)

If the DNI is the DCI, is coordination called for here? Wouldn't "as directed by" be better?

Page 9, Section 321(a)(1)

To the extent that this section is to provide the authority by which the Agency is to receive its "appropriation" through the appropriations of others, it seems unnecessary as required by line 7.17 through 7.20 that the Director be required to make a certification that limitations on the covering appropriation would impede the performance of Agency functions.

Page 10, Section 321(a)(5)

Line 8.48 requires prompt notification. Could this not be an annual report?

Page 10, Section 321(a)(6)

It is in this section that the full investigative charter should appear but, unfortunately, we are empowered to conduct background investigations of applicants only. This is inadequate. We also need authority to investigate contractors, employees, and other persons with similar association with CIA. (See Section 1-811 of E.O. 12036.)

Page 12, Section 321(g)

As there is no Section 125(a), as cited here, should this reference be to Section 154?

Page 14, Section 321(b)(2)

This section should parallel Section 114(m) of Title I, provide for termination "in the interests of the United States," (not referring to national security) and stipulate "periodic reports" rather than reporting "in a timely manner."

TITLE III (continued)

Page 14, Section 321(b)(3)

This subsection, as written, would eliminate the Director's current authority to establish EP and supergrade positions. We question the necessity to seek Congressional action whenever CIA wishes to establish or re-locate a supergrade position. Most other agencies get supergrade allocations from the Civil Service Commission.

Page 14, Section 321(b)(4)

The language would seem to involve the CSC in government employment outside the civil service (e.g., on Congressional staffs). We suggest deleting "by the U.S. Civil Service Commission" from line 10.15.

Also, no limit is placed on reemployment in national security agencies when dismissal has been for security reasons.

Also, should this provision appear in Title I, to protect personnel in the Office of the DNI?

Page 17, Section 323(1) - (Should this be 323(a)?)

We are empowered to seek assistance from law enforcement agencies in the conduct of background investigations which we have no apparent or explicit authority to conduct. The activities mentioned in this section are the ones which should be in Section 321 (a)(6) above.

Page 20, Section 325(a)

We continue to believe that the reference to prior year authorizations may contemplate use of multiple year appropriations. We again emphasize the cost effectiveness of conducting CIA activities under a single year appropriation as has been done until now.

Page 24, Section 325(c)(3)

We are not clear as to the purpose of the requirement in this section to the effect that expenditures and financial obligations be approved by the Director and the Director of OMB. It seems redundant in our view to preceding paragraphs of Section 325(c). A literal interpretation of the language based on the technical meaning of financial "obligation" would require each individual transaction representing a binding agreement for expenditure of funds (an obligation) to receive the prior approval of the Director and the Director, OMB. We suggest deletion of this section.

TITLE III (continued)

Page 32, Section 341(a)(1)

STAT The definition of "employee" is still unsatisfactory. There are a number of individuals under contract to the Agency, with an employer/employee relationship as a result of their working arrangements and functions, who would be prohibited from receiving the benefits and allowances paid Agency staff employees often doing the same work. This paragraph further restricts such benefits or allowances for persons "who when initially employed is a resident or citizen of a foreign country in which the station...." This could be read to mean that such persons would never be eligible for such benefits even when transferred to another country. We do not pay allowances to an individual who is a resident of the country, but we do pay travel and applicable allowances when such a person is transferred to other areas. Among others, this provides for the benefits and allowances paid to Third Country National employees of (appointed employees of the United States Government).

We understand the intent of the phrase "unless otherwise specifically indicated" is to provide authority to include benefits and allowances in contracts; however, this would put these benefits back in discretionary mold, and it is our understanding that the individual who by working arrangements or function has an employee/employer relationship with the Agency is a government employee to all intents and purposes and is entitled to all related benefits.

Page 33, Section 341(b)(2)

Why does this subsection omit specific reference to "travel, transportation and subsistence expenses"?

Page 36, Section 342

Criteria for eligibility under CIARDS should reflect the language of the CIARDS Act, or this section should merely refer to that Act.

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TITLE V

Page 45, Section 562(d)

The last clause ("and to prescribe...activities") would make it impossible for the Office of Communications to provide communications security support for CIA agent operations unless approved by NSA. This is not acceptable.

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6 FEB 1978

MEMORANDUM FOR: Assistant for Information, DDA

FROM:

[REDACTED]
Acting Director of Security

SUBJECT: Intelligence Charter Legislation

REFERENCE: Memorandum from Acting Director of Security
to Legislative Counsel, dated 1 February 1978,
same subject

1. The Office of Security has reviewed the latest drafts of Titles I, II, III and V of subject proposed legislation and, in general, finds them to be a considerable improvement over all previous drafts. Although you requested, in forwarding these drafts, only those comments which would represent something new, we fear that our silence could be misconstrued, particularly regarding the investigative charter issue which is inadequately covered in the new Title III. This issue is so vital to the Office of Security that it demands continued address. Certain additional matters are also touched upon hereinafter.

a. Title I - We see no security equities adversely affected but do note that our previous recommendation on limiting governmental job opportunities of a person fired for national security reasons has not been incorporated (see Section 114(m), page 24).

b. Title II

(1) Section 204(b)(10), page 6 - The definition of National Agency Checks should be amended as suggested in reference.

(2) Section 219, page 21 - We protest the elimination of police checks, a basic step in determining a potential source's suitability.

(3) Section 220(c), page 23 - Again, we feel that police checks should be included in authorized techniques. Such checks could be indispensable to an investigation of a possible violation of security rules or regulations.

(4) Section 254, page 43 - We continue to be disturbed by the possible meaning of "domestic security" investigations.

Insert
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(5) Section 258(b)(1), page 48 - This section implies an investigative charter but only a partial one and indirectly in connection with cooperating with law enforcement agencies. Whether the intent is to limit our investigations to those of applicants only or our police checks to applicant cases only, this section is inadequate to our needs.

c. Title III (formerly Title IV)

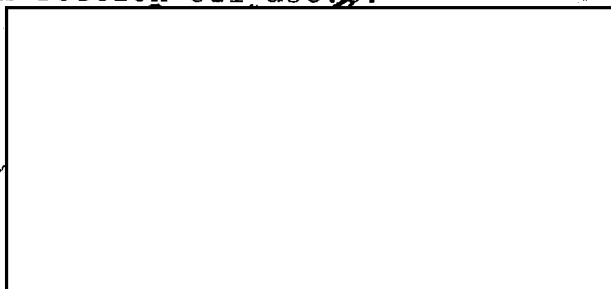
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(1) Section 321(a)(6), page 10 - It is in this section that the full investigative charter should appear but, unfortunately, we are empowered to conduct background investigations of applicants only. This is inadequate.

(2) Section 321(b)(4), page 14 - As noted in our comments on Title I, there is no limitation placed, other than approved by the Civil Service Commission, on a fired employee's right to seek employment elsewhere in the government.

Insert
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(3) Section 323(i), page 17 - We are empowered to seek assistance from law enforcement agencies in the conduct of background investigations which we have no apparent or explicit authority to conduct. The activities mentioned in this section are the ones which should be in Section 321 above.



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6 FEB 1978

MEMORANDUM FOR: Assistant for Information/DDA

FROM: Thomas B. Yale
Director of Finance

SUBJECT: Latest SSCI Draft of Title III

On the basis of our review of the latest SSCI draft of Title III, we have the following comments keyed to the cited sections of the draft:

a. Section 321(a)(1): To the extent that this section is to provide the authority by which the Agency is to receive its "appropriation" through the appropriations of others, it seems unnecessary as required by line 7.17 through 7.20 that the Director be required to make a certification that limitations on the covering appropriation would impede the performance of Agency functions.

b. Section 325(a): We continue to believe that the reference to prior year authorizations may contemplate use of multiple year appropriations. We again emphasize the cost effectiveness of conducting CIA activities under a single year appropriation as has been done until now.

c. Section 325(c)(3): We are not clear as to the purpose of the requirement in this section to the effect that expenditures and financial obligations be approved by the Director and the Director of OMB. It seems redundant in our view to preceding paragraphs of Section 325(c). A literal interpretation of the language based on the technical meaning of financial "obligation" would require each individual transaction representing a binding agreement for expenditure of funds (an obligation) to receive the prior approval of the Director and the Director, OMB. We suggest deletion of this section.

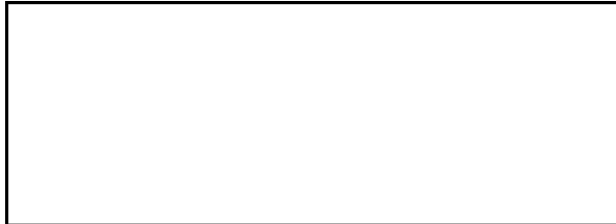
d. Section 341(b)(2): On a quick reading, it is not clear why this section omits specific reference to "travel,

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transportation, and subsistence expenses" and to the relevant chapter of the code making provisions for such expenses.



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